

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FABIAN SANTIAGO,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-cv-00512-DGW
)	
JEREMY ANDERSON,)	
)	
Defendant.)	

ORDER

Pending before the Court is an Order from the Seventh Circuit Court of Appeals directing the Court to explain why it denied appellant Santiago's request for a trial transcript free of charge (Doc. 331). Upon re-examination of Santiago's Notice of Appeal (Doc. 313), the Court **VACATES** its Order Denying Plaintiff's Motion Requesting an Order for a Copy of the Trial Court Transcript (Doc. 318) and **GRANTS** Santiago's Motion for Order for Copy of Trial Transcript (Doc. 317).

28 U.S.C. § 753(f) provides, in pertinent part, that "[f]ees for transcripts furnished in [non-criminal, non-habeas corpus, and non § 2255] proceedings to persons permitted to appeal in forma pauperis shall . . . be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but present a "substantial question)." Thus, a court must determine that the appeal presents a "substantial question: before allowing a transcript to be provided at no charge. *Handley v. Union Carbide Corp.*, 622 F.Supp.1065, 1067 (S.D.W.Va. 1985). A "substantial question" within the meaning of 28 U.S.C. § 753(f) is one that is "reasonably debatable." *Ortiz v. Greyhound Corp.*, 192 F.Supp. 903, 905 (D.Md. 1959).

Santiago has met this standard. Although the Court sees no error in its trial proceedings, Santiago's points are "reasonably debatable" and the Court finds that the appeal is not frivolous.

Accordingly, the Court's Order Denying Plaintiff's Motion Requesting an Order for a Copy of the Trial Court Transcript (Doc. 318) is **VACATED**, and Santiago's Motion is **GRANTED**. The Official Court Reporter shall prepare the transcript of the jury trial proceedings on January 24-26, 2011 at the expense of the United States.

IT IS SO ORDERED.

DATED: March 1, 2011



DONALD G. WILKERSON
United States Magistrate Judge